

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

2003 DEC 16 P 3: 24

2003 DEC 16 P 3:24 **03 CV 12525 RCL**

UNITED STATES OF AMERICA

Plaintiff,

V

MITCHELL M. GERTZ,

Defendant.

U.S. DISTRICT COURT
DISTRICT OF MASS.

MAGISTRATE JUDGE

Court No.

WADSWORTH N/A
 WARNINGS ISSUED YES
 LOCAL RULE 4.1
 ANSWER FORM
 NOT ISSUED
 COUNTY CLERK FOM
 12-14-03

COMPLAINT

The United States of America, by its attorney, Michael J. Sullivan, United States

Attorney for the District of Massachusetts, states as its complaint that:

1. Jurisdiction of this action is conferred on the Court by 28 U.S.C. § 1345.
2. The defendant, Mitchell M. Gertz (hereinafter “Gertz”), resides in the District of Massachusetts at 15 Harwick Road, Wakefield, MA 01880.
3. Gertz is indebted to the United States in the principal amount of \$3,345.86 plus interest computed at the rate of 4.0 percent per annum for a total amount of \$3,413.15 as of December 16, 2003. Thereafter, interest on the principal amount will accrue at the rate of 4.0 percent per annum until the date of judgment. See Exhibit “A” attached hereto and incorporated herein.
4. Gertz has failed to repay the aforesaid sum although demand has been duly made.

WHEREFORE, the United States demands judgment against Gertz in the principal amount of \$3,345.86; plus interest in the amount of \$67.29; plus interest on this principal at an annual rate of 4 percent per annum until the date of judgment, plus filing fee of \$150.00 pursuant to 28 U.S.C. §2412 (a)(2). The United States further demands, pursuant to 28 U.S.C. § 1961, that interest on the judgment accrue at the legal rate until paid in full.

Respectfully submitted,

UNITED STATES OF AMERICA
By its attorneys

MICHAEL J. SULLIVAN
United States Attorney

By:

A handwritten signature in black ink, appearing to read "Christopher R. Donato", written over a horizontal line.

CHRISTOPHER DONATO
Assistant U.S. Attorney
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3288

Dated: December 16, 2003



Rockville MD 20857

CERTIFICATE OF INDEBTEDNESS

Mitchell M. Gertz
15 Harwick Road
Wakefield, MA 01880
Ref: 50057171

Total debt due United States as of November 13, 2003: \$3,413.15 (principal \$3,345.86, interest \$67.29, administrative costs \$0.00).

I certify that the Department of Health and Human Services records show that the debtor named above is indebted to the United States in the amount stated above, plus additional interest on the principal balance of \$3,345.86 from November 13, 2003, at the rate of 4.0%. Interest accrues on the principal amount of this debt at the rate of \$0.37 per day. Interest is computed at a variable rate and is adjusted quarterly. Due to the semi-annual compounding of interest, the current principal amount is greater than the original amount borrowed.

The claim arose in connection with a Government-insured Health Education Assistance Loan (HEAL) made by a private lender and assigned to the United States.

As a student at the Ohio College of Podiatric Medicine, you applied for and were granted the following Health Education Assistance Loans (HEAL), Section 701-720 of the Public Health Service Act (42 U.S.C. 292 f-p).

<u>Date</u> <u>Applied</u>	<u>Date</u> <u>Approved</u>	<u>Amount</u> <u>Approved</u>	<u>Date of</u> <u>Promissory Note</u>	<u>Amount of</u> <u>Promissory Note</u>
08/19/82	09/07/82	\$4,000.00	11/20/82	\$4,000.00

You signed a promissory note agreeing to repay the loan at a variable rate of interest beginning the first day of the tenth month after ceasing to be a full-time student or completing a residency program. The Student Loan Marketing Association (SLMA) purchased your note and received an assignment.

Upon your leaving the Ohio College of Podiatric Medicine, you were furnished a repayment schedule by the SLMA on January 13, 1984, that payments were to begin on March 1, 1984. Between April 7, 1989, and October 8, 1991, you made twenty-two (22) payments, totaling \$1,240.48.

Due to your failure to continue making payments, the SLMA filed an insurance claim on November 20, 1991, with the Department of Health and Human Services (DHHS). The claim in the amount of \$2,937.00 was paid on December 17, 1991, and an assignment of the note was received.

By letter dated December 19, 1991, you were notified that the previous holder of your Health Education Assistance Loans placed you in default and assigned your notes to the United States Government. You were informed that your student loans were consolidated using the lowest interest rate allowable by law. Enclosed were instructions for entering into a repayment agreement (RA) with notice that it must be completed and returned within thirty (30) days. You did not comply.



PAGE 2 - CERTIFICATE OF INDEBTEDNESS - MITCHELL M. GERTZ

In a letter dated August 25, 1992, you were notified that the principal amount of your debt would be referred to the Internal Revenue Service (IRS) for offset of any tax refund to which you might be entitled unless payment in full was received.

On February 4, 1993, and July 7, 1995, you were notified that you had sixty (60) days in which to resolve your delinquent debt. You were advised that if you were unwilling to establish a RA, your case would be immediately referred to the Office of the Inspector General (OIG) for exclusion from participation in the Medicare/Medicaid Programs. The letter also informed you that in the event you did not enter into a RA, your debt would be referred to the U.S. Department of Justice (DOJ) for enforced collection. You did not comply.

In a letter dated August 22, 1995, you were sent a RA with notice that it must be completed and returned by the due date. You were informed that failure to respond would result in your debt being referred to the DOJ.

On September 18, 2002, and September 26, 2003, you were notified that you had sixty (60) days in which to resolve your delinquent debt. You were advised that if you were unwilling to establish a RA, your case would be immediately referred to the OIG for exclusion from participation in the Medicare/Medicaid Programs. The letter also informed you that in the event you did not enter into a repayment agreement RA, your debt would be referred to the DOJ for enforced collection. You did not comply.

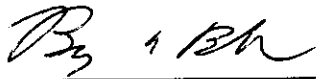
Between July 20, 1994, and December 26, 2000, you made payments totaling \$2,875.48. A credit in the amount of \$485.00 was applied to your account on July 19, 1994, as the result of an IRS offset. To date, a total amount of \$3,360.48 has been credited to your account.

Repeated attempts by DHHS have been unsuccessful in establishing an acceptable repayment schedule for your debt. Because of your lack of cooperation the federal government is exercising its option and declaring your note due and payable. Accordingly, your debt has now been referred to the DOJ for enforced collection.

The amount due should be remitted by check, draft or money order(s) payable to the "U.S. Department of Justice" and mailed directly to the United States Attorney, District of Massachusetts, One Courthouse Way U.S. Courthouse, Suite 9200, Boston, MA 02210.

CERTIFICATION: *Pursuant to 28 U.S.C. 1746, I certify under penalty of perjury that the foregoing is true and correct.*

Date



Barry M. Blum
Chief, Referral Control Section
Debt Management Branch

